



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

APR 10 2008

Lawrence C. Hesse  
President  
Ocean County Landfill Corporation  
25 First Avenue, Suite 200  
Atlantic Highlands, NJ 07716

Dear Mr. Hesse:

On January 11, 2008, Attorneys Kenneth von Schaumburg, Sandra Ayres, and Theodore Schwartz represented Ocean County Landfill Corporation in a meeting with members of the United States Environmental Protection Agency's (EPA) Office of General Counsel in Washington, D.C. Representatives of EPA Region 2 and the Office of Air Quality Planning and Standards participated by phone.

This meeting was held at the request of Mr. von Schaumburg in order to provide him an opportunity to explain the relationship between Ocean County Landfill Corporation (OCLC or Ocean County Landfill Corporation) and Manchester Renewable Power Corporation (MRPC or Manchester Renewable Power Corporation), following up on a paper that he sent to EPA entitled "Ocean County Landfill Corporation Position Paper on Common Control" (Position Paper). Following the presentation by Mr. von Schaumburg, EPA stated that it had some questions regarding the relationship between OCLC and MRPC, and that it would list these questions in correspondence. Accordingly, we are copying Mr. von Schaumburg, Ms. Ayres, and Mr. Schwartz on this letter, and addressing the letter directly to you as the responsible official listed on the title V operating permit for Ocean County Landfill (identified in the permit as "Ocean Cnty Landfill Corp").

Since the matter of a common control relationship was raised in EPA's objection to the Manchester Renewable Power Corporation/LES (MRPC/LES or Manchester Renewable Power Corporation/LES) proposed title V renewal permit, we are also copying Mr. Scott Salisbury, President, MRPC/LES, and Mr. Bill Owen, Vice President, MRPC. We ask that you coordinate with them as needed to provide the information requested below. We have included the Position Paper as an attachment with the mailings to Mr. Salisbury and Mr. Owen.

To supplement information currently available to us, we are requesting that you submit complete and detailed responses to the questions on the following pages, and copies of the documents listed. All requests below are related to further examination of the common control matter and undertaken as follow-up to the meeting, the Position Paper,

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and references in other documents that have been provided in the context of the common control determination for the MRPC/LES title V permit. Please precede each response with the number of the item to which it corresponds.

### **Questions and Requests for Information and Documents**

#### **A. Factual Background section of the Position Paper**

1. The engines at the Manchester Renewable Power Corporation/LES facility, including the engines identified in the title V operating permit as the Ocean Energy Corporation (OEC or Ocean Energy Corporation) engines, are fueled by landfill gas from Ocean County Landfill.

**Questions:** Would MRPC/LES or OEC be able to operate the engines at all without gas supplied by Ocean County Landfill? Does either company use or have the option of using fuel other than landfill gas? If there are restrictions or agreements that prevent MRPC/LES or OEC from using fuel other than landfill gas in its gas-to-energy operations, please identify and describe them. See also item 18 below regarding the grant from the New Jersey Board of Public Utilities to OEC.

2. Based on the Position Paper, our understanding is that in 1995 Michigan Cogeneration Systems, Inc., purchased Manchester Renewable Power Corporation following an arm's length negotiation of the economic terms of the transactions.

**Request:** Please provide a detailed description of the "arm's length negotiation of the economic terms of the transactions" in this case.

3. We also understand from the Position Paper that Manchester Renewable Power Corporation entered into a power purchase agreement for the sale of its electricity to Jersey Central Power & Light Company. We further understand that this agreement was then approved by the New Jersey Board of Public Utilities.

**Request:** Please provide a copy of the power purchase agreement.

4. Based on research we have done, we understand that the above-noted power purchase agreement is for a period of 20 years and that Jersey Central Power & Light Company was formerly a subsidiary of GPU, Inc., but became a

subsidiary of First Energy (due to the fact that GPU, Inc., merged with First Energy in 2001).

Question: Are the above statements correct? See the following links:

<http://www.landfillenergy.com/casestudies.asp#NJ>

NOTE: Click on the link to "Ocean County Landfill" at the above web site to reach the appropriate page.

[http://www.firstenergycorp.com/corporate/Corporate\\_Profile/Company\\_History.html](http://www.firstenergycorp.com/corporate/Corporate_Profile/Company_History.html).

5. Based on the Position Paper, it is our understanding that in 2006 Manchester Renewable Power Corporation purchased Ocean Energy Corporation following an arm's length negotiation of the economic terms of the transactions. Further, our understanding from this Position Paper is that the electricity produced by OEC is sold to a PSEG Energy Holdings company and distributed through a nearby Jersey Central Power & Light Company (JCP&L) distribution line. NOTE: We refer here generically to "OEC." Item 16 below pursues clarification and distinction of the entities Ocean Energy Corporation, Inc., and Ocean Energy Corporation, LLC.

Questions: Please provide a detailed description of the "arm's length negotiation of the economic terms of the transactions" in this case. Is there any particular significance that we should attach to the electricity being distributed through a JCP&L distribution line? To which PSEG Energy Holdings Company is OEC's electricity sold? Is a power purchase agreement in place between the PSEG Energy Holdings Company and OEC? If so, please provide a copy of this power purchase agreement. Explain why MRPC and OEC have contracts with different companies to deliver the electricity they produce onto the grid.

**B. Common Control Analysis section of the Position Paper**

6. In this section of the Position Paper, three court cases are cited in support of the common control position that is articulated.

Request: Provide the relevant paragraphs within each case, with beginning and ending page numbers, for each of the discussions to which you would like us to refer.

**C. Request for Documents**

Please provide the following documents to us for review.

7. The "Stock Purchase and Development Agreement by and between APC and MRPC." See March 16, 2006, Landfill Gas Sales Agreement between Ocean Energy Corp. and GASCO, LLC, at 7 (Paragraph 6.1(2)).

8. The "Site Lease by and between APLC, Inc., and Ocean Energy Corporation." See March 16, 2006, Landfill Gas Sales Agreement between Ocean Energy Corp. and GASCO, LLC, at 7 (Paragraph 6.1(3)).
9. A "Facility Site Lease by and between APLC, Inc. and MRPC" (which is described as giving Manchester the right to occupy and use a portion of the leased premises to build and operate the power production facility). See note in item 10 below.
10. "Gas Flare System Service Agreement by and between OCLC and MRPC." See note below.  
NOTE: The documents listed in items 9 and 10 above are mentioned in the June 30, 1995, Landfill Gas Sales Agreement between Manchester Renewable Power Corporation and GASCO, LLC, at 5-6 (Paragraphs 2.3(a)(1) and 2.3(d)), which was provided as an attachment to the December 16, 2005, letter from Bill Owen, Vice President, MRPC, to Leilani Holgado, Deputy Attorney General, New Jersey.
11. The January, 1985, lease agreement between Ocean County Landfill and Atlantic Pier Company, Inc. See June 30, 1995, "Modification of Lease Agreement Between Atlantic Pier Company, Inc. and Ocean County Landfill Corporation" at 1, third paragraph.
12. Any contracts or other agreements that have been established between Manchester Renewable Power Corporation and Ocean Energy Corporation.

**D. Additional Questions and Requests**

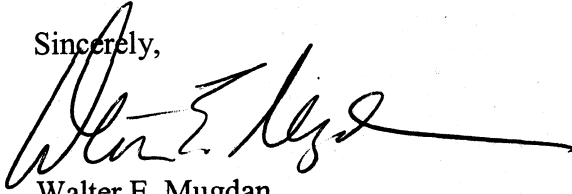
13. What is the relationship between Ocean Energy Corporation and the Atlantic Pier Company? We have information that the OEC was formed by Atlantic Pier Company, Inc. Please confirm that this is correct, or provide a detailed clarification with supporting documentation of the formation of OEC.
14. With respect to the stock purchase and development agreement cited in item 7 above, please provide any additional information about the stock purchases between Atlantic Pier Company and Manchester Renewable Power Corporation.
15. Please explain, in detail, the relationships between Ocean County Landfill Corporation, Atlantic Pier Company, Inc., Atlantic Pier Leasing Company, GASCO, LLC, Ocean Energy Corporation, and Manchester Renewable Power Corporation, including the current and historical ownership interest of each company with respect to the other. In addition, please explain the purpose, function, and compliance responsibilities of each company with respect to operations at Ocean County Landfill, and with respect to operations at the adjacent gas-to-energy facility.

16. What is the complete history of Ocean Energy Corporation's formation and ownership? Why were two separate entities with the same name (OEC, LLC and OEC, Inc.) formed on the same day (11/05/2003) with different officers and directors? What is the current status of OEC, LLC and OEC, Inc.? We have information that OEC, LLC, was "cancelled" and the corporate status of OEC, Inc., was revoked. What is the history of these actions and why were these actions taken?
17. What is the complete history of Manchester Renewable Power Corporation's formation and ownership? What is the exact relationship between Ocean Energy Corporation and MRPC? Has MRPC assumed ownership and/or responsibility for all of the gas-to-energy operations at the facility?
18. It is our understanding that Ocean Energy Corporation was/is scheduled to receive a grant from the New Jersey Board of Public Utilities. What is the status of the grant? Has it been awarded? If it has been awarded, please answer the following questions: For what purpose was the grant awarded? When was it awarded? What amount of money has been received by OEC? Why has Manchester Renewable Power Corporation not been redesignated as the recipient of the grant since its purchase of OEC? Does the grant affect the types of fuel that may be used by the engines at MRPC/LES, including the OEC engines, to produce electricity? Please provide a copy of the grant letter and grant conditions.
19. The recent passing of Charles J. Hesse III has led to some questions regarding his business successor. Who is his successor and what is this successor's role in each of the following entities: Atlantic Pier Company, Atlantic Pier Leasing Company, Ocean County Landfill Corporation, GASCO, LLC, Ocean Energy Corporation, and Manchester Renewable Power Corporation?
20. What are Scott Salisbury's and Bill Owen's roles at each of the entities listed above in item 19? Additionally, what are their roles at Michigan Cogeneration Systems, Inc., Landfill Energy Systems, Energy Investors Funds, and Enpower Corporation?

NOTE: We understand that Energy Investors Funds and Enpower Corporation acquired Landfill Energy Systems recently. This was announced on February 22, 2008, in an article in Waste News.com Daily E-mail.

Please provide your responses to these questions and requests within 45 days. If you have questions relative to the above, please contact Steven Riva, telephone number (212) 637-4074.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter E. Mugdan", with a long horizontal flourish extending to the right.

Walter E. Mugdan

Director, Division of Environmental Planning and Protection

Attachment

cc: Kenneth von Schaumburg, Squire, Sanders & Dempsey, LLP  
Sandra T. Ayres, Scarinci & Hollenbeck, LLC  
Theodore A. Schwartz, Scarinci & Hollenbeck  
Scott Salisbury, Manchester Renewable Power Corporation/LES  
Bill Owen, Manchester Renewable Power Corporation